S.B. CIVIL WRIT PETITION NO.3234/2007.

Shree Cement Ltd.
Vs.
State and ors.

Date of order : 29/5/2007.

HON'BLE MR.JUSTICE MOHAMMAD RAFIQ

Shri Alok Sharma for the petitioner.
Shri B.S. Chhaba, Deputy Government Advocate for the State.

******

Heard learned counsel for the parties.

The pertitioner has approached thisCourt with the prayer that District Collector Ajmer may be directed to ensure free flow of traffic on the link road between National Highway No.8 and State Highway No.39 (Sarmaliya route) and further the Chief Engineer, Public Works Department Rajasthan be directed to ensure that the aforesaid link road (Sarmaliya route) from Sarmaliya to Gopalpura, Goplpura to Sodpura, Sodpura to Pratapgarh and Pratapgarh to Naharpura be constructed and maintained to the requisite standards so as to facilitate smooth flow of heavy traffic.

It has been submitted that the petitioner-company and another company namely; M/s.Gujrat Ambuja Cement which is also a major cement manufacturing company have jointly constructed a new bye-pass road between Daulatpura Baliyan on outskirts of Roopnagar (through Makrera Harrajpura) by purchasing lands from the respective khatedars incurring a huge expense of Rs.3 crores which they are prepared to surender to the respondents to use the same as public road if only they undertakes liability to maintain the aforesaid road. In alternative, therefore, it has been prayed that the respondents be directed to notify the aforesaid road constructed by M/s.Shree Cement Co.Ltd., the petitioner and M/s.Gujrat Ambuja Cement Ltd. as the road for public use in the revenue records for movement of traffic, to & from their respective factory premise.

Shri B.S. Chhaba, Deputy Government Advocate submits that although a meeting was convened by the District Collector Ajmer on 7/5/2007 which was attended by the representatives of both the

companies but before any decision could be taken as to construction of the road, the petitioner filed this writ petition that the administration is likely to take a decision in the matter shortly.

It appears that a public interest litigation was filed by one Shantilal before this Court to the effect that the residents of Beawar town have a grievance about flow of the heavy vehicular during night hours between 10.00 p.m. to 7 a.m. which may not be allowed to ply as it was causing great nuisance. It was contended that heavy traffic including trucks, trollas and dumpers should not be allowed to ply as the same are causing hazardous to their health. In those facts, this Court permitted the petitioner to make a representation to the District Magistrate Ajmer as well as S.P. Ajmer. In the representation, the petitioner made a request for diversion of the heavy vehicles through alternative road with the condition that vehicles should not pass through the villages and populated areas. On the basis of such representation, the District Magistrate Ajmer held a meeting on

21/6/2006 with the officials of the Public Works Department which was attended by representatives of the two cement companies. It was decided to construct an alternative road with the cooperatin of the two cement manufacturing companies. Pursuant to this decision taken in the aforesaid meeting chaired by the District Collector, aforesaid road has been constructed by the petitioner and M/s.Gujrat Ambuja Cement Co. for handing over the same to the respondents. Grievance of the petitioner is that the aforesaid road has yet not been notified inspite of the fact that this has been got constructed from them after purchasing the lands from the khatedars and they are prepared to hand over the same to the respondents for its use as public road and till such time decision is taken on that issue, the earlier route having been closed, the District Administration may be directed to ensure that no obstruction be created on free flow of traffic on the link road between National Highway No.8 and State Highway No.39 (Sarmaliya route).

In the facts of the case, it cannot be denied

that the aforesaid two major cement manufacturing factories have constructed a public way/motorable road for movement of heavy vehicular traffic to & from their respective factory premise. Diversion of the road if needed, has to be decided upon by the District Administration. But when they have required such vehicles to pass through the alternative route, no obstruction is caused to the movement of vehicle is also their responsibility till such time no decision for notification of the newly constructed road.

It is therefore directed that upon petitioner's producing the surrender deeds/conveyance deeds/consent letters from the concerned khatedars on whose lands the new road has been constructed by them pursuant to the decision taken in the meeting convened on 21/6/2006 vide Minutes No.3, the District Collector Ajmer shall take a decision as to the notification of the aforesaid route within a period of one month and

till such time any decision is taken, it should be ensured that no obstruction is created in the free flow of traffic on the link road between National Highway No.8 and State Highway No.39 (Sarmaliya route).

With these observations/directions, the writ petition is disposed of.

(MOHAMMAD RAFIQ), J.

anil